



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Real Estate Board
Virginia Administrative Code (VAC) citation	18 VAC135-20
Regulation title	Real Estate Board Regulations
Action title	Amending regulations to incorporate needed changes
Date this document prepared	3-2-06

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the planned regulatory action is to make clarifying changes, incorporate new education requirements, ensure consistency with State law and to make other changes which may result from the Department's periodic review of the regulations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 54.1-2105 of the Code of Virginia states that the Real Estate Board "may do all things necessary and convenient for carrying into effect the provisions of this chapter and may promulgate necessary regulations."

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The regulations need to be amended to ensure that the regulations conform to the most current statutes and standards of practice in the industry which are necessary to protect the health, safety and welfare of the citizens.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

Add definitions such as “actively participates in the brokerage business” for clarity.

Clarify qualification sections. For example remove redundant language in the criminal conviction section and clarify time frame for misdemeanor convictions.

Amend continuing education requirements to ensure consistency with statutory changes.

Clarify qualifications for renewal of reciprocal license to ensure that all licensees who obtain a license by reciprocity take the state portion of the exam.

Review supervision of business to ensure that the supervision is adequate.

Clarify names and what name changes need to be reported to the Board.

Clarify language regarding maintenance and management of escrow accounts.

Amend disclosure of brokerage relationships to be consistent with statute.

Clarify provisions regarding misrepresentation and omission.

Review provisions regarding schools and courses to ensure consistency with changes to the statute.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Failure to adopt these changes will result in regulations not being as clear as possible and not conforming to statutory changes.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to Christine Martine, DPOR Real Estate Board 3600 West Broad Street Richmond, VA 23230, 804-367-8552, Fax 804-367-6946, reboard@dpor.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

In addition, the agency is seeking information on (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

A public hearing will be held after publication of the proposed regulation and notice of the hearing may be found on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Real Estate Board will be using the participatory approach in the development of the proposed regulations.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights

of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed changes are not expected to have an impact on families.